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July 7, 2023

VIA CM/ECF and E-Mail ([brasel\\_chambers@mnd.uscourts.gov](mailto:brasel_chambers@mnd.uscourts.gov))

The Honorable Nancy E. Brasel  
District Court Judge  
United States District Court  
300 South Fourth Street  
Minneapolis, MN 55415

**Re: *Melinda and Mark Loe, et al. v. Willie Jett, et al.***  
**U.S. District Court No. 23-cv-1527 (NEB/JFD)**

To the Honorable Judge Brasel and Chambers:

Thank you for your assistance on this matter to date. Defendants respectfully seek clarification from the Court pertaining to the text-only order, (Dkt. 25), that issued yesterday in response to Plaintiffs' letter request, also dated yesterday, for permission to move for summary judgment prior to the conclusion of discovery, (Dkt. 24).

Although this order cites to the ECF entry for Plaintiffs' letter, the order references "*Defendants'* request to file an early motion for summary judgment" and instructs "*Defendant*" to contact chambers to schedule a hearing date. (Dkt. 25) (emphasis added). In fact, Defendants did not make this request and, as Plaintiffs' letter notes, did not consent. Defendants instead proposed to Plaintiffs that the parties confer about this matter during the upcoming Rule 26 conference. For these reasons, Defendants seek clarification whether the Court's order issued on an accidental understanding that Defendants, rather than Plaintiffs, made the subject request.

Defendants also wish to alert the Court of a new filing in this matter. Pursuant to Federal Rule of Civil Procedure 15(a)(1)(A), Defendants today filed an Amended Answer that includes counterclaims by Defendant Minnesota Department of Education. Because Defendants first answered in this matter on June 16, 2023, Defendants' amendment falls within Rule 15's twenty-one-day timeframe for amendment as of right.

In light of this filing, Defendants continue to oppose Plaintiffs' request for an expedited summary-judgment schedule. Defendants did not have an opportunity to respond to Plaintiffs' letter prior to the issuance of yesterday's order and, therefore, seek relief if the Court confirms that the order indeed issued on a correct understanding of the requesting party. Defendants oppose Plaintiffs' premature request for summary judgment because, as the nonmoving party, Defendants

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have not had an opportunity for any discovery in this matter, which now includes counterclaims. Discovery is necessary before dispositive motions would be appropriate.

For these reasons, Defendants respectfully request that the Court confirm whether yesterday's order stemmed from a clerical mistake about the identity of the requesting party and vacate the order as appropriate. *Cf.* Fed. R. Civ. P. 60(a). If the Court prefers, Defendants can formally request permission to bring a motion for reconsideration pursuant to Local Rule 7(j) and file a letter that requests permission to so move. Defendants reserve their rights to bring any and all appropriate motions pertaining to their discovery rights in this matter, including but not limited to motions pursuant to Federal Rule of Civil Procedure 56(d).

Thank you for your time and attention to this matter.

Respectfully submitted,

*s/ Martha J. Casserly*

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